

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Incorporation of GYLA's recommendations in the draft "Police Law"

On October 4, 2013 the Parliament of Georgia adopted the draft police law by the third reading (the document has not been published yet).

GYLA was involved in discussion of the [draft](#), namely, it took part in sessions of the Legal Issues Committee of the Parliament and attended some meetings held with the Ministry of Interior. GYLA's representatives were active to submit their opinions on various issues. Furthermore, they submitted [written legal opinion on the draft](#). We are

pleased to note that part of GYLA's remarks has been incorporated in the draft adopted by the Parliament with the third reading. Hereby we submit some of the issues that were considered by the Parliament:

- Police is not the part of militarized agencies system;
- Police actions that cause limitation of rights are permitted only on the basis of the law rather than by-laws;
- By the new draft, the police are entitled to summon an individual to the police for an interview on the basis of the notification. Participation in the mentioned event is voluntary. Upon GYLA's recommendation an individual is notified in advance that visit in police bears voluntary character;
- According to the new draft, the police are authorized to question an individual if there is sufficient reason for the doubt that it possesses necessary information for fulfillment of police functions. As a result of GYLA's recommendation, the law prescribes directly that in the process of inquiry, disclosure of information by an individual is voluntary and s/he should be informed about it in advance;
- According to the draft, in cases prescribed by law, the Police are authorized to apply to the following measures for identification of the individual: take finger prints, take a photo or determine other biometric data. As a result of GYLA's recommendation, the law prescribes directly that "prior to implementing identification operation, an individual should be given opportunity to verify his/her identity within reasonable period;"
- If sufficient legislative grounds persist, the police are entitled to stop and frisk an individual, as well as to carry out his/her general inspection and inspection of objects or vehicles. As a result of GYLA's recommendations, some guarantees will be applied while implementing the procedure. Namely, the period for stopping an individual should not exceed 30 minutes; the object and vehicle should be inspected only visually; if conducted frisk raises necessity of detailed search, it should be implemented with observance of norms stipulated by the Criminal Procedure Law;
- During the special police control (so called raids) only frisk and visual inspection should be conducted;
- In the process of identification of an individual, during an interview with a person after summoning him/her to the police, a protocol should be drafted where apart from other information, police officer should indicate reasons for implementing the measure;
- In case of detecting signs of offence, the general inspection should submit relevant

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materials immediately to the General Prosecutor's Office of Georgia.

Along with the listed issues, GYLA's other opinions were also taken into account. Nevertheless, certain problematic topics that were not considered at this moment remain in the agenda. This is ensuring of political impartiality of the police, issues related to application of fire arms and other special means and others. ([for details see GYLA's legal opinion](#)). It should also be considered that for systemic reform of the police, it is important to amend radically the Law of Georgia on "Operation-investigative activities" and to revise the Code of Administrative Offences, especially the norms about administrative imprisonment, which come in conflict with the Constitution and the standards established by the European Convention of Human Rights. We remain hopeful that the Ministry of Interior and the Parliament will continue to work on the issues in the nearest future. GYLA is ready to cooperate with both agencies in the process of reforming police and the Ministry of Interior.